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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,179	08/21/2006	Heiko Pelzer	DE040055	1965
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EXAMINER				
DINH, TRINH VO				
ART UNIT		PAPER NUMBER		
2821				
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02/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,179

Applicant(s)

PELZER, HEIKO

Examiner

Trinh Vo Dinh

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-11, drawn to an antenna module.

II. Claims 12-15, drawn to method to operate a telecommunication device.

The inventions are distinct, each from the other because of the following reasons:

Inventions group I and group II are related as process and apparatus. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus. For example, the process as claimed can be practice by two antennas each without metallic resonator structures or/and the antennas without vertically aligned with respecting to the printed circuit board.

2. There is an examination and search burden of these patentably distinct species due to their mutually exclusive characteristics. The invention require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and /or the prior art applicable to one invention would not likely be applicable to another invention; and/or the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that a reply to this requirement to be complete must include (i) an invention to be examined even though the requirement may be traversed (37 CFR 1.143).

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. It the reply does not distinctly and specifically point out

supposed errors in the election of invention requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to consider timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

4. Although claim 16 is pending in the application, the claim 16 has not been further treated on the merits for the following reasons:

a. Claim 16 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. While claim 16 is directed to a method to operate the antenna module of claim 1, upon which claim 16 depends, they do not constitute any further limitation to the antenna module of claim 1. Thus, claim 16 is improper dependent claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

b. In addition, claim 16 is rejected under 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claim 2 tends to direct to a **process** to operate while claim 1, upon which claim 2 depends, on its face is directed to an

apparatus of an antenna module; and as such, it does not apprise a person of ordinary skill in the art of its scope of the claimed invention. Furthermore, the limitations recited in claim 16 which are directed to a manner of operating the antenna module of claim 1 do not differentiate the apparatus of claim 1. If Applicant(s) insists on retaining a method claim, separately rewriting the claim in an independent form is suggested.

Since it is unclear which category claim 16 will be directed, claim 16 can't be grouped in the invention I or II. Therefore, the claim 16 has been withdrawn from the consideration.

Inquiry

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh Vo Dinh whose telephone number is (571) 272-1821. The examiner can normally be reached on Monday to Friday from 9:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong, can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 02, 2009

Application/Control Number: 10/598,179
Art Unit: 2821

Page 5

*/Trinh Vo Dinh/
Primary Examiner, Art Unit 2821*